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Kansas Department of Health and Environment
Bureau of Air and Radiation
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New Source Review (NSR) Routine Maintenance, Repair, and Replacement Exclusion (RMRR) Technical Guidance Document - BAR 2004-06

Purpose Statement: To establish the practice of KDHE for reviewing requests for exclusion from New Source Review based on routine maintenance, repair and replacement activities.

1. K.A.R. 28-19-350 applies to the construction and modification of major stationary sources and adopts by reference 40 C.F.R. 52.21, with exceptions as noted in the Kansas rule.
2. One of the federal rule provisions that Kansas has adopted, 40 C.F.R. 52.21(b)(2)(i) defines "major modification" as "any physical change in or change in the method of operation of a major stationary source . . ." 40 C.F.R. 52.21(b)(2)(iii)(a) then excludes "routine maintenance, repair and replacement (RMRR)" from the "physical change or change in the method of operation" portion of the "major modification" definition.
3. The U.S. EPA has historically defined the "routine maintenance, repair and replacement" exclusion by policy. To better define the RMRR exclusion, EPA published a final rule in the Federal Register on October 27, 2003. The final rule was vacated on March 17, 2006 by the U.S. Court of Appeals for the District of Columbia Circuit Court.

KDHE Position

In accordance with 40 CFR 52.21(b)(2)(iii), RMRR is not considered a physical change or change in the method of operation. KDHE reviews RMRR exclusions on a case-by-case basis and considers the following factors: nature, extent, purpose, frequency, cost and other factors. EPA Region V's May 23, 2000 applicability determination relating to Detroit Edison summarizes the factors considered (copy attached-Attachment A).

Prepared by:

 6/1/06

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 6-1-6

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